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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.: 10/671,852
CONFIRM. NO.: 8689
APPLICANT: Ricky J. McCorkle
FILED: September 26, 2003

ART UNIT: 3724
EXAMINER: Charles Goodman
DOCKET NO.: 198/1
CUSTOMER NO.: 36829

FOR: HANDHELD SCORING DEVICE AND METHOD FOR SCORING
FLEXIBLE SHEET MATERIAL

**PETITION TO THE COMMISSIONER
TO WITHDRAW HOLDING OF ABANDONMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a petition for the withdrawal of the Examiner's holding that the above-referenced application has been abandoned due to Applicant's failure to timely file a proper reply to the Office letter mailed on November 17, 2004, and to direct the Examiner to act upon the merits of the case.

DISCUSSION

Petitioner respectfully submits the following facts and circumstances leading to the holding of abandonment. A Notice of Abandonment dated June 3, 2005 was received indicating that the application was abandoned because of Applicant's failure to file a proper response to the Office Action mailed on November 17, 2004.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PQ Box 1450, Alexandria, VA 22313-1450 August 5, 2005.

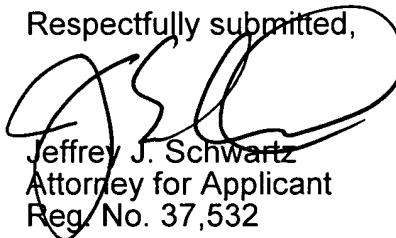
Michelle H. Keane
Michelle H. Keane

August 5, 2005
Date

By way of answer and explanation, Petitioner points out that the applicant did file a Response to the Office letter, and in a timely fashion prior to the statutory deadline of May 17, 2005. See Exhibit 1. Applicant's response was submitted on February 17, 2005, as indicated on the Certificate of Mailing, Transmittal Form Cover, and return receipt postcard. Copies of the Transmittal Form Cover and return receipt postcard are attached at Exhibit 2.

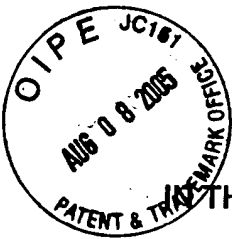
If there are any fees required for this Petition, please charge the undersigned attorney's Deposit Account No. 50-2716. A duplicate of this paper is being submitted for this purpose.

Respectfully submitted,



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THE UNITED STATES PATENT AND TRADEMARK OFFICE

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FLEXIBLE SHEET MATERIAL

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Examiner's Office Action dated November 17, 2004.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on February 17, 2005.

Kristen Salgado
Kristen Salgado

February 17, 2005
Date

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (currently amended) A handheld scoring device adapted for scoring flexible sheet material arranged at an inside corner defined by first and second converging surfaces, said scoring device comprising:

(a) a housing having first and second converging sides adapted for engaging respective converging surfaces, and defining an interface ~~at an~~ proximate a notional point of intersection of said first and second sides for residing adjacent the inside corner; and

(b) means carried by said housing and adapted for protruding from said interface towards the inside corner to score the sheet material at the inside corner.

2. (original) A handheld scoring device according to claim 1, wherein said scoring means is slidably mounted within said housing and adapted for longitudinal movement along a length dimension thereof.

3. (original) A handheld scoring device according to claim 2, and comprising a user-actuated slide control button connected to said scoring means and adapted for moving said scoring means along the length dimension of said housing.

4. (original) A handheld scoring device according to claim 3, wherein said housing defines a longitudinal guide track opposite said interface, and adapted for guiding longitudinal movement of said slide control button.
5. (original) A handheld scoring device according to claim 4, wherein said slide control button comprises beveled bumps extending proximate to said guide track to facilitate longitudinal movement of said control button.
6. (original) A handheld scoring device according to claim 1, and comprising biasing means for normally urging said scoring means into a retracted condition within said housing.
7. (original) A handheld scoring device according to claim 1, and further comprising an end cap removably attached to said housing to facilitate access to said scoring means therein.
8. (original) A handheld scoring device according to claim 1, wherein said housing comprises contoured finger grips.
9. (original) A handheld scoring device according to claim 1, wherein said interface defines a rounded edge of said housing.

10. (original) A handheld scoring device according to claim 1, wherein the first and second sides of said housing are disposed at a substantially 90-degree angle.

11. (original) A handheld scoring device according to claim 1, wherein said housing comprises a length dimension and a width dimension, the length dimension being greater than three times the width dimension.

12. (original) A handheld scoring device according to claim 1, wherein the length dimension of said housing is greater than 6 inches.

13. (original) A handheld scoring device according to claim 1, wherein said means for scoring comprises a knife.

14. (currently amended) A method of scoring flexible sheet material, comprising the steps of:

(a) arranging the sheet material at an inside corner defined by first and second converging surfaces;

(b) locating a cutting scoring device adjacent the inside corner and over the sheet material, the cutting scoring device having first and second converging sides adapted for engaging respective converging surfaces, and defining an interface ~~at an~~ proximate a notional point of intersection of the first and second sides; and

(c) extending a scorer from the interface of the cutting scoring device to score the sheet material at the inside corner.

REMARKS/ARGUMENTS

The undersigned greatly appreciates the courtesies extended by Examiner Goodman during the telephone conference on February 4, 2005. During this interview, Applicant discussed the "interface" recited in the claims, and the extension of the scoring means from the interface towards the inside corner. Claims 1-14 in the case are pending, and have been rejected under 35 U.S.C. §102(b) as being anticipated by Beard.

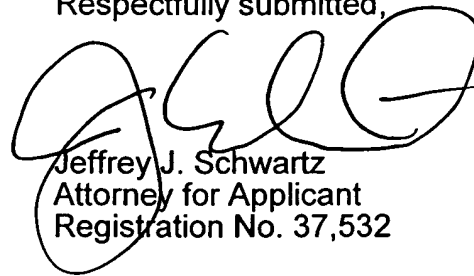
Applicant has amended independent Claims 1 and 14 herein to more clearly define the method and structure of the invention, and the operation of the scoring means to score the sheet material at the inside corner. Specifically, the product claims recite a handheld scoring device adapted for scoring flexible sheet material arranged at an inside corner defined by first and second converging surfaces. The converging surfaces may be, for example, a vertical wall and floor or a vertical wall and ceiling. The scoring device comprises a housing having first and second converging sides adapted for engaging respective converging surfaces. *An interface is formed proximate a notional point of intersection of the first and second sides of the housing for residing adjacent the inside corner formed by the converging surfaces.* The "notional point of intersection" is discussed in the application at ¶0040, and referenced in the drawings (Figure 6) at "I". A scoring means is carried by the housing *and adapted for protruding from the interface towards the inside corner to score the sheet material at the inside corner.*

According to the art cited, Beard discloses a cutter with a housing having opposing top and bottom surfaces, and opposing "converging" side surfaces (56, 58). See Figure 3. Unlike the claimed invention, the cutting blade (14) of Beard extends outwardly from the *bottom surface* of the housing, and *not at an interface formed proximate an intersection of the converging side surfaces.* See Figures 4-6. As such, Beard does not disclose, teach or suggest the claimed scoring means *adapted for protruding from the interface towards the inside corner to score the sheet material at the inside corner*—the claimed "interface" being formed proximate an intersection of the first and second sides of the housing for

residing adjacent the inside corner. The scoring means (cutting blade) of Beard does not extend outwardly from converging sides of the housing towards an inside corner, and is entirely inapplicable for cutting or scoring sheet material at the inside corner.

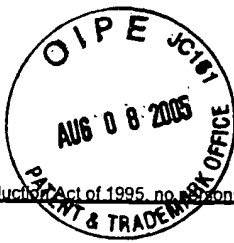
For all these reasons discussed above, Applicant submits that all of the claims in the case are now in condition for allowance. Such action is therefore respectfully requested at an early date. If the Examiner believes that issues remain for discussion, he is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'JJS', is written over the typed name and title of the signatory.

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7

Application Number

10/617,852

Filing Date

September 26, 2003

First Named Inventor

Ricky J. McCorkle

Art Unit

3724

Examiner Name

Charles Goodman

Attorney Docket Number

198/1

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



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After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):**Remarks**

Enclosed please find a Response to be filed in connection with the above-referenced patent application. If there are any additional fees due in connection with this matter please charge Applicant's Deposit Account No. 50-2716.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Schwartz Law Firm, P.C.

Signature

Printed name

Jeffrey J. Schwartz

Date

February 17, 2005

Reg. No.

37,532

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name

Kristen Salgado

Date

February 17, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Docket No. 1981
Serial No. 1001852
Client: Rick McCortle

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